



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

OG ~~60696~~

2005 JUN 21 A 9:56

FILE: 6446.6 C19 REPLY TO THE ATTENTION OF:

LIBRARY: _____

JUN 14 2005

Mr. Johnny W. Reising
 United States Department of Energy
 Fernald Closure Project
 175 Tri-County Parkway
 Springdale, Ohio 45246

SR-6J

RE: Legacy Management and
 Institutional Control Plan
 Revision C

Dear Mr. Reising:

The United States Environmental Protection Agency (U.S. EPA) has completed its review of the United States Department of Energy's (U.S. DOE) revised comprehensive Legacy Management and Institutional Control plan (LMIC), revision C. This document provides information on Legacy Management, and Institutional Controls at the Fernald, Ohio site.

This revision of the LMIC is again improved from the previous version and includes more extensive detail regarding community involvement, along with changes to the Advanced Wastewater Treatment facility. However, the document requires significant revision and clarification. The most significant concerns are the need to include the post-closure community involvement plan into Volume 2 of the LMIC, a failure to include a complete document for review, and U.S. DOE's planned submittal of the next revision.

The community relations activities are an extension and modification of the existing approved Sitewide Community Involvement Plan. Therefore this document should be included as an attachment to Volume 2 of the LMIC. Also, the Integrated Environmental Monitoring Plan (IEMP) was not included as an attachment with the LMIC. Reviewing the LMIC where the IEMP was cited on several occasions is difficult without the IEMP being included. All future revisions to the LMIC must include the IEMP and all attachments. Finally, U.S. DOE has indicated that a final version of the LMIC will be submitted in January 2006 to include the most relevant sitewide changes. Although U.S. EPA has no problem reviewing the LMIC at that time, it is imperative that U.S. DOE revise the existing LMIC, incorporating U.S. EPA's enclosed comments, and submit a Revision D, for U.S. EPA to review prior to the January 2006 submittal. This approach is

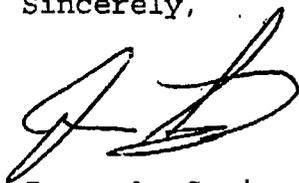
-2-

essential for U.S. DOE to receive approval of the LMIC in a timely fashion in 2006.

Therefore, U.S. EPA disapproves the LMIC, Revision C. U.S. DOE must submit adequate responses to U.S. EPA's enclosed comments and a revised document incorporating those responses within thirty (30) days receipt of this letter.

Please contact me at (312) 886-0992 if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Saric', written in a cursive style.

James A. Saric
Remedial Project Manager
Federal Facilities Section
SFD Remedial Response Branch #2

Enclosure

cc: Tom Schneider, OEPA-SWDO
Jamie Jameson, Fluor Fernald
Frank Johnston, Fluor Fernald

**TECHNICAL REVIEW COMMENTS ON
"REVISED COMPREHENSIVE LEGACY MANAGEMENT AND INSTITUTIONAL
CONTROL PLAN"**

FERNALD CLOSURE PROJECT

SPECIFIC COMMENTS ON LEGACY MANAGEMENT PLAN (VOLUME I)

Commenting Organization: U.S. EPA
Section #: Executive Summary Page #: Not Applicable(NA)
Original Specific Comment #: 1

Commentor: Saric
Line #: NA

Comment: The text states that the final Comprehensive Legacy Management and Institutional Control Plan (LMICP) will be submitted to the U.S. Environmental Protection Agency (U.S. EPA) and Ohio Environmental Protection Agency (OEPA) in January 2006. Several issues raised by U.S. EPA and OEPA in their comments on the July 2004 version of the LMICP were deferred by the U.S. Department of Energy (DOE) until submittal of the January 2006 version because details (such as support plans, the Multi-Use Educational Facility [MUEF], and the final use of the site) have not been finalized. Because site closure is projected for March 31, 2006, final site conditions and final decisions for site use may not be known when the January 2006 version of the LMICP is submitted. As a result, the January 2006 version will need to be reviewed and commented on by U.S. EPA and OEPA, revised by DOE, and reviewed again by U.S. EPA and OEPA before a final version is approved. The text should be revised to state that an interim final version of the LMICP will be submitted in January 2006. Also, sections of text in Volume I of the LMICP that DOE knows will change should be highlighted as placeholders for future revisions.

Commenting Organization: U.S. EPA
Section #: 1.1 Page #: 2
Original Specific Comment #: 2

Commentor: Saric
Line #: NA

Comment: The text states that four support plans are included as appendixes to Volume II of the LMICP. The four support plans are actually attachments to Volume II. The text should be revised to resolve this discrepancy in terminology.

Commenting Organization: U.S. EPA
Section #: 2.3.1 Page #: 13
Original Specific Comment #: 3

Commentor: Saric
Line #: NA

Comment: The text briefly discusses possible public use amenities such as trails and overlooks but states that a decision regarding public use amenities would be premature until settlement of the Natural Resource claim. This section and other sections of the text that discuss final public use amenities should be highlighted as placeholders for future revisions of the LMICP in which the settlement of the Natural Resource claim and the final public use amenities will be discussed.

Commenting Organization: U.S. EPA
Section #: 2.4.4 Page #: 16
Original Specific Comment #: 4

Commentor: Saric
Line #: NA

Comment: Section 2.4.4 is a new section that discusses areas of the site (utility corridors, soils, structures, and roads) that will not be certified at closure. These uncertified areas should also be discussed in Volume II of the LMICP. In addition, the schedule for certification of these

uncertified areas and the institutional controls that apply to them should be discussed. The LMICP should be revised accordingly.

Commenting Organization: U.S. EPA
 Section #: 3.0 Page #: 19
 Original Specific Comment #: 5

Commentor: Saric
 Line #: NA

Comment: Section 3.0 states that activities such as swimming, hunting, and camping will be prohibited on site and that a decision regarding fishing will be made based on an interim residual risk assessment that is planned following closure. The text should be revised to briefly discuss the scope of the residual risk assessment (fish and water bodies to be targeted and the risk assessment schedule) and the criteria that will be used to decide whether fishing is to be allowed at the site. This information should also be discussed in Volume II of the LMICP.

Commenting Organization: U.S. EPA
 Section #: 7.0 Page #: 31
 Original Specific Comment #: 6

Commentor: Saric
 Line #: NA

Comment: Section 7.0 discusses the funding of legacy management activities over the next 7 years and refers to a cost estimate in Appendix A. The text should be revised to discuss whether costs for the MUEF are included in the cost estimate.

Commenting Organization: U.S. EPA
 Attachment #: A Page #: A.1
 Original Specific Comment #: 7

Commentor: Saric
 Line #: NA

Comment: The community involvement plan (CIP) describes community relations activities that will be conducted to report information about the site to the public. The activities described in the CIP are also applicable to Section 5.0 of Volume II of the LMICP because that section discusses public access to information. Therefore, the CIP must be included in an attachment to Volume II of the LMICP, as this document is actually a modification of the approved Community Relations plan.

Commenting Organization: U.S. EPA
 Attachment #: A Page #: A.3
 Original Specific Comment #: 8

Commentor: Saric
 Line #: NA

Comment: Section 2.0 of the CIP provides a very brief discussion of the site's description and background. The text should be revised to discuss site soil and groundwater contaminants, cleanup goals, cleanup and restoration activities, on-site waste disposal, off-site waste disposal, and air and radiation monitoring results.

Commenting Organization: U.S. EPA
 Attachment #: A Page #: A.5
 Original Specific Comment #: 9

Commentor: Saric
 Line #: NA

Comment: Section 4.0 of the CIP is titled Community Profile, but no populations are identified for the communities surrounding the site. The text should be revised to list the current populations of Ross, Shandon, Fernald, New Baltimore, and New Haven and to discuss any population or demographic changes or trends in the area surrounding the site.

Commenting Organization: U.S. EPA
 Attachment #: A Page #: A.9
 Original Specific Comment #: 10

Commentor: Saric
 Line #: NA

Comment: Section 6.0 of the CIP discusses roles and responsibilities. The text should be revised to discuss the roles and responsibilities of the community involvement coordinator who will interface with the community and the various agencies involved with the site. If known, the name, address, and telephone number of the community involvement coordinator should be provided.

Commenting Organization: U.S. EPA
 Attachment #: A Page #: A.9
 Original Specific Comment #: 11

Commentor: Saric
 Line #: NA

Comment: Section 6.0 of the CIP states that maintaining institutional controls will ensure that no residential or agricultural uses of the site occur. The text should be revised to add that no hunting, swimming, camping, or (possibly) fishing will occur at the site.

Commenting Organization: U.S. EPA
 Attachment #: A Page #: A.11
 Original Specific Comment #: 12

Commentor: Saric
 Line #: NA

Comment: Section 8.0 of the CIP discusses public meetings that will occur to discuss activities being conducted at the site. The text should be revised to provide the address of the location where the public meetings will be held.

Commenting Organization: U.S. EPA
 Attachment #: A Page #: A.16
 Original Specific Comment #: 13

Commentor: Saric
 Line #: NA

Comment: Section 9.0 of the CIP states that DOE plans to have a post-closure information center located on site. The text should be revised to provide the address, telephone number, and hours of operation of the information center and to clarify whether the information center is the same structure as the on-site education facility discussed in Section 10.0.

Commenting Organization: U.S. EPA
 Attachment #: A Page #: A.21
 Original Specific Comment #: 14

Commentor: Saric
 Line #: NA

Comment: Section 14.0 of the CIP discusses news releases and editorials. The text should be revised to list the newspapers, radio stations, and television stations where news releases and community advisories will be provided to the community.

Commenting Organization: U.S. EPA
 Attachment #: A Page #: A.24
 Original Specific Comment #: 15

Commentor: Saric
 Line #: NA

Comment: Section 17.0 of the CIP states that DOE has agreements in place with local emergency responders to respond to any emergencies that may occur at the site. The point of contact, address, telephone number, and name of each local emergency responder should be provided in the table in Attachment B to Volume I of the LMICP.

Commenting Organization: U.S. EPA
Attachment #: A Page #: A.25
Original Specific Comment #: 16

Commentor: Saric
Line #: NA

Comment: Section 18.0 of the CIP discusses a mailing list that will be used to notify individuals, public interest groups, local governments, and agencies about key activities at the site. The CIP should be revised to include a schedule that outlines the timeframes or milestones for key activities at the site.

Commenting Organization: U.S. EPA
Attachment #: B Page #: B.1
Original Specific Comment #: 17

Commentor: Saric
Line #: NA

Comment: The list of information contacts in Attachment B of the CIP should be expanded to include information for (1) James Saric of U.S. EPA; (2) Tom Schneider of OEPA; (3) the site community involvement coordinator; (4) local newspapers, radio stations, and television stations; and (5) local emergency responders, including police and fire departments.

SPECIFIC COMMENTS ON INSTITUTIONAL CONTROL PLAN (VOLUME II)

Commenting Organization: U.S. EPA
 Section #: Executive Summary Page #: NA
 Original Specific Comment #: 1

Commentor: Saric
 Line #: NA

Comment: The text states that the final LMICP will be submitted to the U.S. EPA and OEPA in January 2006. Several issues raised by U.S. EPA and OEPA in their comments on the July 2004 version of the LMICP were deferred by DOE until submittal of the January 2006 version because details (such as support plans, the MUEF, and the final use of the site) have not been finalized. Because site closure site is projected for March 31, 2006, final site conditions and final decisions for site use may not be known when the January 2006 version of the LMICP is submitted. As a result, the January 2006 version will need to be reviewed and commented on by U.S. EPA and OEPA, revised by DOE, and reviewed again by U.S. EPA and OEPA before a final version is approved. The text should be revised to state that an interim final version of the LMICP will be submitted in January 2006. Also, sections of text in Volume II of the LMICP that DOE knows will change should be highlighted as placeholders for future revisions.

Commenting Organization: U.S. EPA
 Section #: 1.1 Page #: 4
 Original Specific Comment #: 2

Commentor: Saric
 Line #: NA

Comment: The text states that four support plans are included as Appendixes A, B, C, and D to Volume II of the LMICP. These four plans are actually Attachments A, B, C, and D to Volume II. The text should be revised to resolve this discrepancy in terminology.

Commenting Organization: U.S. EPA
 Table #: 2-1 Page #: 7
 Original Specific Comment #: 3

Commentor: Saric
 Line #: NA

Comment: Table 2-1 states that the MUEF may provide information on site restrictions and that routine patrols will be conducted to prevent unauthorized access to and use of the site. When the final land use for the site is decided, the table should be revised to state how recreational uses such as hunting, fishing, camping, and swimming will be controlled, restricted, or prohibited at the site and what the consequences for violating restrictions will be. This information should also be included in the CIP and posted at the MUEF.

Commenting Organization: U.S. EPA
 Table #: 2-2 Page #: 8
 Original Specific Comment #: 4

Commentor: Saric
 Line #: NA

Comment: The heading of the last item in the first column of the table should be Preventing Unauthorized Access to the OSDF.

Commenting Organization: U.S. EPA
 Section #: 2.1.1 Page #: 9
 Original Specific Comment #: 5

Commentor: Saric
 Line #: NA

Comment: The text states that an interim residual risk assessment is planned after closure of the site and that the decision regarding whether fishing will be permitted on site will depend on the results of the risk assessment. The text should be revised to briefly discuss the scope of the residual risk assessment (such as the fish and water bodies to be targeted and the risk assessment schedule) and the criteria that will be used to decide whether fishing is allowed at the site.

Commenting Organization: U.S. EPA
 Section #: 3.3.1 Page #: 14
 Original Specific Comment #: 6
 Comment: The text states that a list of prohibited activities will be posted at site access points. The text should be revised to identify the prohibited activities.

Commentor: Saric
 Line #: NA

Commenting Organization: U.S. EPA
 Section #: 5.0 Page #: 25
 Original Specific Comment #: 7
 Comment: Section 5.0 addresses information management for the site, including providing for public access to information. However, the text does not discuss the public meetings or community relations activities that will be conducted to provide information to the public after site closure. This information is discussed in the CIP, which is Attachment A to Volume I of the LMICP. The CIP must be included in an attachment to Volume II, which is enforceable under the Comprehensive Environmental Response, Compensation, and Liability Act, as this document is a modification of the existing Community Relations Plan.

Commentor: Saric
 Line #: NA

Commenting Organization: U.S. EPA
 Appendix #: C Page #: NA
 Original Specific Comment #: 8
 Comment: The site contact list in Appendix C should be expanded to include the contacts listed in Attachment B of the CIP as well as information for (1) James Saric of U.S. EPA; (2) Tom Schneider of OEPA; (3) the site community involvement coordinator; (4) local newspapers, radio stations, and television stations; and (5) local emergency responders, including police and fire departments.

Commentor: Saric
 Line #: NA

Commenting Organization: U.S. EPA
 Appendix #: D Page #: NA
 Original Specific Comment #: 9
 Comment: The Fernald Site Area Post-Closure Inspection Checklist states that perimeter areas will be inspected to ensure that no unauthorized site use or disturbance is occurring. The text should be revised to state that interior areas of the site will also be inspected.

Commentor: Saric
 Line #: NA

Commenting Organization: U.S. EPA
 Attachment #: D Page #: NA
 Original Specific Comment #: 10
 Comment: Attachment D is the IEMP. This document was referenced throughout the LMICP however it was not included with the submittal. The IEMP must be updated and submitted with the next version of the LMICP, as it contains information necessary to review, before the LMICP can be approved. Although U.S. EPA has reviewed and approved previous versions of the IEMP, the document needs to be submitted with the LMICP.

Commentor: Saric
 Line #: NA